

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT CINCINNATI**

DAVID S. HOPPER,

Petitioner, : Case No. 1:14-cv-652

- vs -

District Judge Susan J. Dlott
Magistrate Judge Michael R. Merz

SHERRI DUFFEY, Warden,
Hocking Correctional Facility,

:
Respondent.

ORDER ADOPTING REPORTS AND RECOMMENDATIONS

The Court has reviewed the Report and Recommendations and Supplemental Report and Recommendations of United States Magistrate Judge Michael R. Merz (ECF Nos. 27, 30), to whom this case was referred pursuant to 28 U.S.C. § 636(b) and Petitioner's Objections to each of those filings (ECF Nos. 28, 32). Pursuant to Fed. R. Civ. P. 72(b)(3), the Court has reviewed *de novo* all portions of the Reports and Recommendations to which objection has been made.

Based on that *de novo* review, the Court concludes Petitioner's objections are not well taken. Under *Santobello v. New York*, 404 U.S. 257 (1971), promises made to induce guilty pleas must be enforced. But Hopper has not proved that he was promised concurrent sentences before he entered his guilty plea. Moreover, his late discovery of the fact that federal law requires that a sentence under 18 U.S.C. § 924 must be served consecutively to any other sentence does not qualify as a starting point for the statute of limitations under 28 U.S.C. § 2244(d). Accordingly the Report and Recommendations and the Supplemental Report and Recommendations are ADOPTED.

It is hereby ORDERED that the Petition be DISMISSED with prejudice. Petitioner is also DENIED any requested certificate of appealability and the Court hereby certifies to the United States Court of Appeals that an appeal would be objectively frivolous.

November ___, 2015.

s/Susan J. Dlott_____
Susan J. Dlott
United States District Judge